

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PIERRE LaMONT LEAKE,

Civil No. 10-2101 (SRN/SER)

Petitioner,

v.

ORDER

JESSICA SYMMES,

Respondent.

Pierre LaMont Leake, *pro se*, Minnesota Correctional Facility - Oak Park Heights, 5329 Osgood Avenue North, Stillwater, Minnesota, 55082.

Linda Kay Jenny, Esq., Assistant Hennepin County Attorney, C-2000 Government Center, 300 South Sixth Street, Minneapolis, Minnesota, 55487, for Respondent.

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Steven E. Rau. On December 22, 2011, Petitioner filed a document entitled “Notice of Appeal from a Judgement (sic) and/or Order of the District Court Pursuant to 28 U.S.C. Sec. 2253 and Fed. R. App. P. 4(a)” [Docket No. 27]. In this document, the Petitioner states that he is appealing to the Eighth Circuit from the final judgment. However, no such final judgment has been entered. Therefore, given that Petitioner’s filing clearly states that its intended purpose is to appeal to the Eighth Circuit, along with the fact that no objections to the Report and Recommendation are identified within the document, **IT IS HEREBY ORDERED** that:

1. Petitioner’s application for habeas corpus relief under 28 U.S.C. § 2254, [Docket No. 1], is **DENIED**;

2. This action is **DISMISSED WITH PREJUDICE**; and

3. Petitioner will **NOT** receive a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 4, 2012

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge